

Saugus Board of Selectmen  
September 7, 2010

Minutes  
Saugus Board of Selectmen  
September 7, 2010, 7:00 PM  
Town Hall Auditorium, 298 Central Street

- 1.) Call to order.
- 2.) Public Hearings:

7:00 PM PAM, Inc. d/b/a LAVO Ristorante, 114 Broadway, Michael Reppucci, manager to show cause that it did not serve alcoholic beverages after its designated hours, and did not provide entertainment after its designated hours on July 3 and July 4, 2010. The Board of Selectmen has scheduled this hearing based on a report of the Chief of Police submitted to the Board alleging that the licensee had, in fact, operated after the designated hours set forth in its alcoholic beverages and entertainment licenses on the aforementioned dates. The Board will also hear evidence pursuant to the provisions of G.L c. 138, section 12, sixth paragraph, as to the public need for the licensed premises to remain open until 1:00 AM or remain open with respect to other license times and conditions.

The Saugus Board of Selectmen met on September 7, 2010 at 7:00pm in the Town Hall Auditorium, 298 Central Street. Present were: Selectmen Scott Crabtree, Stephen Horlick, Michael Kelleher, Michael Serino and the Chairman Donald Wong.

Saugus Board of Selectmen  
September 7, 2010

The Chair called the meeting to order and introduced Police Chief Domenic DiMella. Chief DiMella announced that Saugus Police will be taking part in a medical sweep so people may legally and safely dispose of prescription medication and said children think prescription medication is safe and for awareness of the public that is not and said drop off will be at the police station September 25.

The Chair excused himself from the table and Vice Chair Crabtree took the Chair.  
7:00 PM PAM, Inc. d/b/a LAVO Ristorante, 114 Broadway, Michael Reppucci,  
manager: Vice Chair read notice of hearing.

Attorney Patrick McDonald, 15 Ferry Street, Malden was present representing LAVO Ristorante and Special Counsel Ira Zaleznik was present representing the Selectmen.

Special Counsel explained there were two police reports that the Licensed business was operating past designated hours of operation and entertainment was offered after designated hours of operation and suggested the Board hear testimony from the police officers.

Attorney McDonald said he has no opening statement and is not the owners' intention to dispute the officer's reports and said he will simply stipulate to the information in reports as accurate with respect to the violation of condition of license and said it is the owners' position it was a misunderstanding and once advised they no longer operated after 1:00am and said they accepted it and advised staff and management entertainment is to be off at 1:00am and there have been no violations since and explained similarly regarding the patio area that it was simply an oversight and the owners' position is they don't deny and accept responsibility for it and did make sure staff and managers are aware so it no longer occurs. And respectfully requested the Board accept that from July 4<sup>th</sup> forward there have not been any violations found.

Vice Chair asked if he jointly represents with Atty. Fallon. Atty. McDonald said he is employed by his law office. The Vice Chair explained the Board as policy generally likes to hear from the reporting officers.

Special Counsel called Officer Nichols. Officer Kevin Nichols was present and read his report. Special Counsel asked after he observed patrons consuming alcohol in the patio area if he spoke to anyone. Officer said the manager on duty and explained he was conducting an inspection. Special Counsel asked if he recalled the name. Officer said Paul. Special Counsel asked if he brought it to the attention of the manager regarding outside area. Officer said no. Vice Chair asked if he observed Frank Amato present. Officer said no. Mr. Horlick asked his length of service. Officer said 30 years. Mr. Horlick asked if he has conducted liquor inspections in the past. Officer said yes. Atty. McDonald had no questions for the officer.

Special Counsel called Officer Gaiieski. Officer Anthony Gaiieski was present and read his report and said he observed music and televisions still playing and smoking in the patio area. Special Counsel asked the time. Officer said around 1:18am. Special Counsel asked if he checked permitted hours. Officer said yes before his shift. Special Counsel asked if the hour was after permitted hours on licenses. Officer said correct. Special Counsel asked if he spoke with personnel. Officer said the manager he thinks his name was Paul. Special Counsel asked if he spoke with anyone else. Officer said no. Attorney McDonald asked if he made management aware. Officer said yes. Attorney

Saugus Board of Selectmen  
September 7, 2010

McDonald asked what he did. Officer said the manager made them shut off the televisions.

Special Counsel had no more witnesses. Attorney McDonald had no witnesses.

Special Counsel said the notice of the hearing along with associated police reports and receipts be received into evidence and marked as "Exhibit 1" and to take administrative notice of prior similar incidents that were subjects before the Board. Vice Chair said they received a verbal warning and agreed to have details on Friday & Saturday nights. Special Counsel said that's all he has to present to the Board.

Vice Chair asked if the establishment hires police details on Friday & Saturdays. Attorney McDonald said he cannot answer. Police Chief Domenic DiMella was present and said they have been requesting details but are not always able to fill them. Vice Chair asked the Chief to follow up on unpaid bills for police details.

Attorney McDonald said to summarize that there is no dispute with respect to entertainment feels it is a modest violation and suggests it's not egregious and when it was brought to their attention they brought themselves into compliance with no further violations and said regarding liquor on the patio after permitted hours that it was an oversight and corrected and said he was not aware if unable to fill police details and it would be more likely violations not occur if uniformed police officer is present and said it is the ultimate responsibility of the owners. Mr. Horlick asked if he was saying if details were there this wouldn't have happened. Atty. McDonald said no he is saying uniformed police are best way and the likelihood of violations diminish. Mr. Horlick asked how other establishments that do not have details do it and said restrictions are clearly posted on licenses. Attorney McDonald said he is misinterpreting what he is saying. Mr. Horlick said if they have details or not it doesn't matter they should know the conditions. Attorney McDonald said he stated earlier that it is the responsibility of the owner. Vice Chair the Board didn't have mutual agreement for liquor violations it was issues of violence and disturbances to prevent disturbances and noted this is the 3<sup>rd</sup> time this establishment has been before the Board stating it was a misunderstanding and asked he be fair in how he characterizes it. Mr. Serino said the Board went through the police detail issue with another establishment and they blamed the Town for incidents because we couldn't fill all the details. Attorney McDonald said he is not shifting the responsibility and it was not his intention to and apologized and said he was just making a general statement.

Vice Chair asked if anyone from the public wanted to speak.

Maureen Dever, TMMP3, pointed out this is not the 1<sup>st</sup> occurrence and said she wants to note the licensee is not present and said they are not novice license holders and said they have other establishment and should be well versed in Chapter 138. Special Counsel and Attorney McDonald had no questions.

Mr. Horlick moved to close the hearing. Vice Chair seconds. Vote: 4-0.

Vice Chair said he is disappointed the license holder is not here and based on opening statements and stipulating to the reports he finds the testimony credible and past show cause hearings and here we are again with license time and outside seating and hear it's a misunderstanding and its troubling they are not aware and will be supportive of some sort of roll back and progressive discipline.

Mr. Kelleher agreed and said its not 1 or 2 times and unfortunate but clear violations.

Saugus Board of Selectmen  
September 7, 2010

Mr. Horlick said it's not the 1<sup>st</sup>, 2<sup>nd</sup> it's the 3<sup>rd</sup> time and would like to see the owners here and seems over the last several months they're not understanding or misunderstanding and feel the Board should modify the License by removing the outside seating and minimum of 3 day suspension and entertainment 2 or 3 day suspension and said the licensee admits to violations of licenses.

Mr. Serino said it's clear something is going on there and the Board did issue a warning and then a 2 day suspension and said something is happening there and seems like the owners don't care and said they have a 2AM Common Victualer's and a 1:30am alcohol, a 1am entertainment, plus patio agree should revoke patio and recommend roll back to 1am for everything – everyone off the premises by 1am and if it's not a problem, they can come back in a year to review.

Mr. Horlick asked 1am and remove patio. Mr. Serino said food not drink and serve to 1am. Vice Chair offered 12:30 last call and would support 3 day suspension as progressive discipline.

Mr. Serino moved roll back of Common Victualer's License to 1:00am; All Alcoholic Beverages License to 1:00am; Entertainment to 1:00am; and last call at 12:30am. Mr. Horlick doesn't want alcohol served on patio area. Vice Chair said he would like to see a 3 day suspension. Mr. Horlick asked the motion include a 3 day suspension of the All Alcoholic Common Victualer's License. Special Counsel asked for clarification on Entertainment License. Vice Chair said on all Licenses. Motion seconded by Vice Chair. Vice Chair said for clarification the motion includes revocation of alcohol in the patio area – food only; all licenses will have a 1:00am restriction; last call at 12:30am; and 3 day suspension, and asked about dates and suggested October dates and for draft findings for the Board to review and vote. Mr. Serino added suspension dates as the 14<sup>th</sup>, 15<sup>th</sup> & 16<sup>th</sup> of October. Vote: 4-0.

Mr. Wong returned to the table and resumed the Chair.

Mr. Crabtree said he would like an executive session to discuss issues with Kasabuski with Counsel.

Mr. Serino said the Board received notice of application for Keno-To-Go for Gulf Express.

Mr. Serino moved the clerk notify the Lottery Commission the Board will take it up at the September 28 meeting. Chair seconds. Vote: 5-0.

Mr. Serino reminded the Board of site visit at Aggregate tomorrow at 5pm.

Mr. Crabtree moved the Board go into executive session to discuss pending litigation regarding Kasabuski. Those to be preset: Selectmen, Special Counsel and their clerk and not to return to open session. Chair seconds.

Roll call vote: Mr. Crabtree, yes; Mr. Horlick, yes; Mr. Kelleher, yes; Mr. Serino, yes; Mr. Wong, yes. Vote: 5-0.

(Before the Board went into executive session they allowed for citizen's forum.)

Citizen's Forum

Maureen Dever, passed out copy of document and said she questions the ownership of LAVO and asked the Board look at the documents presented and look into the ownership.

The Board entered into executive session at 7:54pm in the Town Hall 1<sup>st</sup> floor conference room.

The Meeting adjourned from executive session at 8:55pm.

Saugus Board of Selectmen  
September 7, 2010

Respectfully submitted,  
Wendy Reed, Clerk

*Applications with supporting documentation, correspondence and documents presented and discussed at the meeting are on file in the Board of Selectmen's Office and are available upon request.*